

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
MESSENGER SIGNS, INC.,

Appellant,

**v.**

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY.

**Respondent.**

**PCHB No. 1102**

**FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

PER W. A. GISSBERG: A formal hearing was held in Seattle, Washington on January 12, 1977 on the appeal of a \$100.00 civil penalty arising from an alleged violation of Section 9.11(a) of respondent's Regulation I. All Board members were present.

Appellant, Messenger Signs, Inc., appeared by and through its President, E. G. Kerrihard. Respondent appeared by its attorney, Keith D. McGoffin.

Having heard the testimony and considered the exhibits and statements of the parties, the Board makes and enters the following

FINDINGS OF FACT

I.

Respondent, pursuant to RCW 43.21B.260, has filed with this Board a certified copy of its Regulation I containing respondent's regulations and amendments thereto.

II.

Responding to a citizen's complaint, a Puget Sound Air Pollution Control Agency inspector visited appellant's place of business on October 20, 1976, and detected an odor whose intensity was described as from two to three on a scale of zero to four described as follows:

<u>SCALE</u>	<u>DESCRIPTION OF ODOR</u>
0	No odor
1	Barely detectable odor
2	Distinct and definite odor, unpleasant
3	Strong odor, one a person would try to avoid
4	Strong and overpowering odor, intolerable for any length of time

III.

Appellant's building is used to conduct a sign painting business and the odor that was emitted therefrom came from an exhaust stack on top of the building.

IV.

On that particular day, October 20, 1976, the air was fairly stagnant all over the city, resulting in an "alert."

V.

Persons living in a residence next door to the appellant's building have on prior occasions detected and described odors emanating from appellant's place of business as follows: "like acetone or paint"

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1 "very intense"--"really strong"--"chemical." At least one person  
2 who has an asthmatic condition has had less frequent asthmatic  
3 attacks since moving from the residence next door to the plant.

4 However, in fourteen years time, until the instant matter  
5 occurred, appellant has received no complaints about objectionable  
6 odors, nor have other residents of the same building next door  
7 reported that they observed or detected objectionable odors, from  
8 appellant's plant. The area is one zoned for light industrial use  
9 and there is one other sign company immediately across the street from  
10 appellant's building which conducts paint spraying in an open area  
11 without a spray protection chamber.

#### 12 VI.

13 Section 9.11(a) of respondent's Regulation I makes it unlawful  
14 to cause or permit the emission of an air contaminant if it causes  
15 detriment to the health, safety or welfare of any person.

16 Section 1.07 of respondent's Regulation I defines air contaminant  
17 as including "odorous substance."

#### 18 VII.

19 Any Conclusion of Law hereinafter stated which may be deemed a  
20 Finding of Fact is hereby adopted as such.

21 From these Findings the Pollution Control Hearings Board comes  
22 to these

#### 23 CONCLUSIONS OF LAW

##### 24 I.

25 Appellant violated Section 9.11(a) of respondent's Regulation I  
; by causing or permitting the emission of an air contaminant which

27 FINAL FINDINGS OF FACT  
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1 caused detriment to the health, safety or welfare of other persons.

2 II.

3 Appellant has had no previous violations of respondent's  
4 regulation nor was its president even aware of any odor problem  
5 emanating from the plant prior to the time that he was cited for the  
6 instant violation of respondent's regulations. Under those circumstances,  
7 a conditional suspension of the penalty should be put into effect if  
8 appellant takes immediate steps to remedy the situation. The first  
9 step that he should take is to apply for a variance while he determines  
10 how to comply with respondent's regulation and eliminate or reduce  
11 the odor to acceptable levels.

12 III.

13 Any Finding of Fact which should be deemed a Conclusion of Law  
14 is hereby adopted as such.

15 Therefore, the Pollution Control Hearings Board issues this

16 ORDER

17 The civil penalty in the amount of \$100.00 is suspended upon  
18 condition that appellant apply for a variance within thirty days  
19 from the date of this order.

20 DATED this 20<sup>th</sup> day of January, 1977.

21 POLLUTION CONTROL HEARINGS BOARD

22 Art Brown  
23 ART BROWN, Chairman

24 W. A. Gissberg  
25 W. A. GISSBERG, Member

26 FINAL FINDINGS OF  
27 FACT, CONCLUSIONS  
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Chris Smith  
CHRIS SMITH, Member